

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

BORUSIEWICH & COLE, P.C., et al., )  
Plaintiffs, )  
v. )  
CAMICO MUTUAL INSURANCE )  
COMPANY, )  
Defendant. )  
No. 4:16-CV-404 CAS

## ORDER

This matter is before the Court on defendant CAMICO Mutual Insurance Company’s motion to stay these proceedings. In the alternative, CAMICO Mutual Insurance Company (“CAMICO”) moves that the Court reassign this case to the Honorable John A. Ross, who is presiding over a related case, or that the Court dismiss Counts II and IV of plaintiffs’ complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim. Plaintiffs Borusiewich & Cole, P.C. and Nicholas Borusiewich oppose these motions, which are ripe for review.

This case involves a dispute over insurance. CAMICO argues that the Court should stay these proceedings because key issues in dispute in this case – such as coverage under the policy, and whether the policy is void – will be decided in Ahrens v. CAMICO Mutual Insurance Company, 4:15-CV-130 JAR, a related garnishment case pending before Judge Ross. Plaintiffs respond that this litigation need not be stayed because the issues in the cases are not the same. Plaintiffs argue that in this case they are claiming breach of the insurance contract, bad faith refusal to settle, and bad faith in the handling their insurance claim, issues that are not in dispute in Ahrens. CAMICO argues in its reply that coverage under the policy is at the heart of the garnishment case, and if there is no coverage under the policy or the policy is void, then plaintiffs' claims in this case are moot.

The Court has reviewed the record and agrees with defendant. Central issues in this case, such as coverage, are also in dispute in Ahrens. Furthermore, a summary judgment motion is currently pending before Judge Ross, in which coverage under the policy and the validity of the policy are at issue. The Court, therefore, finds that in order to conserve judicial resources and to prevent duplicative litigation and inconsistent orders, defendant's motion to stay should be granted pending a decision by Judge Ross in the related litigation. Defendant will be ordered to notify the Court within ten (10) days after Judge Ross's decision has been made, so the stay may be promptly lifted and appropriate action taken herein.

Also pending before this Court is CAMICO's motion to reassign this case to the Honorable John A. Ross. CAMICO argues that the case should be reassigned to Judge Ross because there is a risk of inconsistent rulings. While the cases do have some of the same issues, the cases are not so related that reassignment is required. Disputes over insurance coverage are not automatically assigned to the judge in the underlying case. Furthermore, defendants' concerns will be ameliorated by the stay.

Defendants also filed a motion to dismiss two counts of plaintiffs' complaint. In light of the stay, the Court will deny the motion to dismiss without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that defendant CAMICO Mutual Insurance Company's motion to stay the proceedings in this case is **GRANTED**. [Doc. 12]

**IT IS FURTHER ORDERED** that further action in the present case is **STAYED** pending further order of this Court.

**IT IS FURTHER ORDERED** that within ten (10) days of a decision on the motion for summary judgment in Ahrens v. CAMICO Mutual Insurance Company, 4:15-CV-130 JAR,

defendant CAMICO Mutual Insurance Company shall notify this Court in writing. Upon receipt of such notice, the Court will lift the stay.

**IT IS FURTHER ORDERED** that defendant CAMICO Mutual Insurance Company's motion to dismiss Counts I and IV is **DENIED** without prejudice. [Doc. 10]

**IT IS FURTHER ORDERED** that defendant CAMICO Mutual Insurance Company's motion for Reassignment to the Honorable John A. Ross is **DENIED**. [Doc. 14]

**IT IS FURTHER ORDERED** that plaintiffs Nicholas Borusiewich and Borusiewich & Cole, P.C.'s Motion for Leave to File Response to CAMICO Mutual Insurance Company's Motion for Reassignment is **DENIED** as moot. [Doc. 25]



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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 20th day of December, 2016.